

NEBRASKA GAME AND PARKS COMMISSION

MEMORANDUM

TO: Project Sponsors and Architects/Engineers

FROM: Neal Bedlan, Federal Aid Administrator
Land and Water Conservation Fund Section

SUBJECT: Procurement Procedures for Obtaining Sealed Bids
Under the Land and Water Conservation Fund Program

DATE: February 14, 2003

These procedures will assist the sponsor and their consultants in complying with the various state and federal laws for procuring labor and materials by sealed bids. Sealed bids in Nebraska are generally required if a project, in the aggregate, is estimated to cost \$25,000 or more. The requirements of the specification document and the responsibilities of both the sponsor and your consultant are included in the following pages.

For contracts of \$25,000 or more, the project sponsor must inform the U.S. Department of Labor of the award by forwarding the completed form found on page 6.

As always, we are willing to discuss these requirements with you and if you have any questions you may call (402) 471-5424.

IMPORTANT NOTE: If irregularities arise from the bidding process, or if you are unsure about awarding the contract, first discuss the matter with me to avoid non-compliance with federal procurement rules.

NEBRASKA GAME AND PARKS COMMISSION
LAND AND WATER CONSERVATION FUND

PROCUREMENT BY SEALED BIDS

I. GENERAL

In Nebraska a project item that will cost \$25,000 or more, in the aggregate, must be procured by the method of sealed bids (formal advertising). To determine the project item's aggregate cost, the sponsor or engineer must add the sum of all of the parts of the item that will make it a whole, usable and functional facility. A shelter project, for example, might consist of components such as the structure, concrete and electrical whose total combined (aggregate) estimated cost is \$25,000 or more. As such, the facility must be publicly advertised for sealed bids. **THE SPONSOR MAY NOT SEPARATE THE AGGREGATE ITEMS TO AVOID ADVERTISING A PROJECT ITEM.**

II. SEALED BID STANDARDS

Sealed bids are defined as bids that are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. All sealed bid procurement transactions will be conducted in a manner providing full and open competition. In order for sealed bids to be feasible, the following conditions should be present:

- A. A complete, adequate and realistic specification or purchase description is available;
- B. Two or more responsible bidders are willing and able to compete effectively for the business; and
- C. The procurement lends itself to a firm fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

- A. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
- B. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
- C. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- D. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

- E. Any or all bids may be rejected if there is a sound documented reason.

III. **SPONSOR'S RESPONSIBILITIES**

- A. **Plans and Specifications and Bid Documents.** The sponsor will be required to have prepared proper bid documents and plans and specifications for obtaining sealed bids for a project item that is estimated to cost \$25,000 or more or as required by state law. Such plans and specifications will be prepared by a Nebraska licensed and qualified architect or engineer. The sponsor, or the designated consultant, will submit two (2) sets of plans and specifications to the Nebraska Game and Parks Commission for review and approval **prior** to opening the sealed bids. The sponsor will receive an approval letter with additional procedural instructions.

NOTE: G & PC's review of the plans and specifications will be restricted to proper federal contract procurement provisions. The principal architect or engineer is ultimately responsible for the performance and safety of the facility or project items that are specified in the plans and specifications document. The NGPC reserves the right to require plans and specifications for any project item.

- B. **Reviews and Approvals by Other Agencies.**

1. **State Electrical Division.** Construction projects involving major electrical work will be inspected by an inspector of the State Electrical Division upon project completion. There is a fee charged for this service and it is eligible for funding. IF your community has an electrical inspector, your inspector should do the inspection. Submit one (1) copy of their final inspection report. **You or your consultant is responsible for contacting division personnel.**
2. **Department of Environmental Quality.** Construction projects involving septic tank/tile fields or sanitary sewers should be forwarded directly to the Department of Environmental Quality, Wastewater Facilities Section, PO Box 98922, Lincoln NE 68509-8922. Submit one (1) copy of their review and approval. There is a fee charged for this service and it is eligible for funding.
3. **Department of Health.** Projects involving underground irrigation projects should be sent directly to the Department of Health, Division of Environmental Health and Housing Surveillance, PO Box 95007, Lincoln NE 68509-5007. Submit one (1) copy of their review and approval. There is a fee charged for this service and it is eligible for funding.

Generally approvals by either the Department of Environmental Quality or the Department of Health will be granted prior to opening any sealed bids. If this is not possible, a Change Order will be necessary to incorporate their comments into the plans and specifications. No review is required for projects involving water fountains or yard hydrants. However, it is expected that the local sponsor provide safe and sanitary delivery facilities for public use and that, where possible, they be made accessible and usable by the handicapped.

- C. **Handicapped Accessibility Requirements.** All facilities subject to Title II of the Americans with Disabilities Act (A.D.A.) must be designed and constructed in conformance with the Accessibility Guidelines for Buildings and Facilities. These design guidelines were modeled on the Uniform Federal Accessibility Standards that were previously required on Land and Water Conservation Fund projects. Upon request the NGPC can provide guidelines, however, your consultant should already have them.

- D. **Awarding a Contract.** Contracts must be awarded to the low, qualified bidder, whose bid conforms with all of the terms and conditions of the invitation for bids. Submit one (1) signed contract to NGPC.
- E. **Change Orders.** All change orders will be reviewed and approved by NGPC. Submit one (1) copy for staff review, if possible, prior to signing, then forward one (1) copy of the fully executed order.

IMPORTANT NOTE: The sponsor must first obtain written permission from the Nebraska Game and Parks Commission to award any contract to a bidder whose bid is:

1. **Higher than the apparent low bidder; or**
2. **When only one bid is received in response to the bid solicitation.**
3. **See I. Below.**

Written approval to award a contract under these circumstances will be given by the Nebraska Game and Parks Commission prior to actual award of the contract.

- F. **Debarred/Suspended Contractors.** Under no circumstances will a contract be awarded to any bidder who is debarred or suspended from doing business with the Federal government. **The contractor must sign the certificate that is included with these instructions (See Attachment A).** The signed certificate must be returned to this office, along with the signed contract. Each prospective contractor should sign the form and provide it with the proposal as assurance to the project sponsor that the contractor is not debarred or suspended from doing business with the federal government.
- G. **Notice of Contract Award.** The sponsor must submit the Notice of Contract Award found on page 6 to the address given within ten (10) days after the award when the contract is \$25,000 or more.
- H. **Conflict of Interest.** No employee, office or agent of the project sponsor shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: 1) the employee, officer or agent; 2) any member of his immediate family; 3) his or her partner; or 4) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The project sponsor's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.
- I. **Responsible Contractors.** Project sponsors will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources. If necessary, the sponsor may be required to submit the appropriate documentation that substantiates the reasons for not awarding a contract to such a contractor.
- J. **Record Retention.** Project sponsors will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection and the basis for the contract price.

K. **Contracting with Small and Minority Business Firms, Women's Business Enterprises and Labor Surplus Area Firms. (From OMB Circular A-102, 43 CFR, Part 12. Federal Register, Vol. 53, No. 48, Friday, March 11, 1988, Rules and Regulations).**

The sponsor will take all necessary affirmative steps to assure that minority firms, women's business enterprises and labor surplus area firms are used when possible. Affirmative steps shall include:

1. Placing qualified small and minority business and women's business enterprises on solicitation lists.
2. Assuring that small and minority business and women's business enterprises are solicited whenever they are potential sources.
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business and women's business enterprises.
4. Establishing delivery schedules, where the requirement permits, which encourages participation by small and minority business and women's business enterprises.
5. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

NOTE: See Attachment B.

SEND TO:

U.S. Department of Labor
Office of Federal Contract Compliance
106 South 15th Street - Room 808
Omaha NE 68102

NOTICE OF CONTRACT AWARD

1. CONTRACTOR'S NAME:

ADDRESS:

PHONE NUMBER:

2. EMPLOYER IDENTIFICATION NUMBER:
(Social Security Number)

3. DOLLAR AMOUNT OF CONTRACT:

4. ESTIMATED STARTING DATE:

5. GEOGRAPHIC AREAS IN WHICH CONTRACT IS TO BE PERFORMED:

County	City (If Applicable)	State
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_____Sponsors Name

_____Signature

_____Title

_____Date

IV. ARCHITECT/ENGINEER RESPONSIBILITIES

The following items, where required, are to be in the specification document for construction or for material only projects. Refer to Attachment C for a checklist of requirements that need to be in the specification document for projects of varying estimated costs. Material only contracts, of course, do not need employment provisions, so only the provisions of A, C, D & E apply to a project of that nature.

- A. **Notice to Bidders.** The public notice that will be in the newspaper must contain the following things:
1. Project Name
 2. Project Number - NPS 31-00--- (NPS stands for National Park Service)
 3. This statement Verbatim: **"Federal Funds will be used to assist with the development of this project."**
- B. **Copeland Anti-Kickback Act (18 U.S.C. 874) and as Supplemented in Department of Labor Regulations (29 CFR, Part 3).** Include the following statement verbatim in the specification for all contracts for construction and repair regardless of contract cost:
- "The contractor agrees that he will not induce, by any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he is otherwise entitled."
- C. **Breach of Contract.** Contracts shall contain such contractual provisions or conditions which allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate (AIA or NSPE Standard General Conditions are acceptable standards for this purpose).
- D. **Access to Records.** Include the following statement verbatim in the specification document:
- "The contractor agrees that the owners, the Federal grantor agency (NPS), the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audit, examination, excerpts and transcriptions.
- E. **Termination.** All contracts in excess of \$25,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor. (Again, AIA or NSPE Standard General Conditions are acceptable.)
- F. **Bonding Requirements (For Contracts or Subcontracts Exceeding \$100,000).**
1. A **bid guarantee** from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required with the time specified.

2. A **performance bond** on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such a contract.
 3. A **payment bond** on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- G. **Federal Water Pollution Control Act (For Contracts Exceeding \$100,000).** The contractor is required to comply with the provisions of the Clean Air Act of 1970 (42 U.S.C. 1857 et. seq.).
- H. **Equal Employment Opportunity Contract Compliance.** These contractor requirements are applicable to construction subcontracts to be awarded that involve workers and that exceed \$25,000. Include all of Attachment B in the specification document.
- I. **Debarment and Suspension Form.** For all contracts which are expected to equal \$25,000 or more, the contractor must complete the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" form with the bid. Project sponsors must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order No. 12549, "Debarment and Suspension" (see Attachment A).
- J. **Contract Work Hours and Safety Standards Act.** Include the following statement verbatim in the specification documents for construction contracts awarded by sponsors in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers:

"Compliance with Sections 103 & 107 of the Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5). The provisions of the Act are as follows:

1. **Overtime Requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek, whichever is greater.
2. **Violation.** Liability for unpaid wages; liquidated damages in the event of any violation of the clauses set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore to be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards employed in violation of the clause set forth in subparagraph (1) of this paragraph in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

3. **Withholding for Unpaid Wages and Liquidated Damages.** The National Park Service, or its designee, shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.
4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this paragraph, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontract. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

HEALTH AND SAFETY

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
 2. The contractor shall comply with regulations issued by the Secretary of labor pursuant to Title 29, Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract work Hours and Safety Standards Act (P.L. 91-54.83, Stat 96).
 3. The contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The contractor will take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.
- K. **Davis-Bacon Act.** The provisions of this Act do not apply to the Land and Water Conservation Fund program.
- L. **Executive Order No. 11246.** The provisions of this order must be included in the specifications verbatim as found on pages 11-22. Such provisions include the Certification of Non-Segregated Facilities, the Equal Opportunity Clause, Notice of Requirement for Affirmative Action to Ensure Equal Opportunity, Standard Federal Equal Employment Opportunity Construction Contract Specifications and Reporting Requirements for all projects over \$25,000 that are all included in the instructions.

- M. **Copyrights.** The Federal awarding agency (NPS) reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
1. The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
 2. Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- N. **Brand Name.** Specifying brand name only is prohibited. Instead, the term "or equal" should be provided in the specification. Inform the G & PC if the item is available only from a single source.

CERTIFICATION OF NON-SEGREGATED FACILITIES

The federally-assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The federally-assisted construction contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The federally-assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for such employees which are segregated by explicit directive, or are in fact segregated on the basis of race, creed, color or national origin, because of habit, local custom or otherwise. The federally-assisted construction contractor agrees that (except where he has obtained identical certifications from proposed contractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$25,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certification in his files.

(Signature)

(Date)

(Name and Title of Signer - Please Type or Print)

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.
- C. The contractor will send to each labor union or representative of workers which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union, or worker's representative of the contractor's commitments under this section, and shall post copies of notices in conspicuous places available to employees and applicants for employment.
- D. The contractor will comply with all provisions of Executive Order No. 11246, as amended, and the rules, regulations and relevant orders of the Secretary of Labor.
- E. The contractor will furnish all information and reports required by Executive Order No. 11246, as amended, and by the rules, regulations and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with the procedures authorized in Executive Order No. 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246, as amended, or by rules, regulations or order of the Secretary of Labor, or as otherwise provided by law.
- G. The contractor will include the provisions of Paragraphs (A) - (G) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246, as amended, so that such provisions will be binding upon each subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: **Provided, however**, that in the event the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER NO. 11246)

1 As used in these specifications:

- a **"Covered Area"** means the geographical area described in the solicitation from which this contract resulted;
- b **"Director"** means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c **"Employer Identification Number"** means the Federal Social Security Number used on the employer's Quarterly Federal Tax Return, U.S. Treasury Department, Form 941;
- d **"Minority"** includes:
 - i Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - ii Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultures or origin, regardless of race);
 - iii Asian or Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); and
 - iv American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2 Whenever the contractor or subcontractor, at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$25,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which the contract resulted.

3 Whenever the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4 The contractor shall implement the specific affirmative action standards provided in paragraphs (7a) through (7p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The

contractor is expected to make substantially uniform progress towards its goal in each craft during the period specified.

- 5 Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligation under these specifications. Executive Order No. 11246, or the regulations promulgated pursuant thereto.
- 6 In order for the non-working training hours of apprentices and trainees to be counted in meeting goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- 7 The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from these actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - c Maintain a current file of the name, address and telephone numbers of each minority and female off-the-street applicant and minority and female referral from a union, a recruitment source or community organization and of what action was taken with respect to each individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union, or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.
 - d Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligation.
 - e Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under (7b) above.
 - f Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations by including it in any policy manual and collective bargaining agreement, by publicizing it in the company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year, and by posting the company EEO policy on bulletin boards accessible to all

employees at each location where construction work is performed.

- g Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of those items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- h Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i Direct its recruitment efforts, both oral and written, to minority, female and community organizations to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment sources, the contractor shall send written notification to organizations such as the above, describing the opening, screening procedures and tests to be used in the selection process.
- j Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- k Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR, Part 60-3.
- l Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m Ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
- n Ensure that all facilities and company activities are non-segregated except that separate or singular-use toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8 Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of the affirmative action obligations (7a) through (7p). The efforts of a contractor association, joint contractor-union, contractor-community and other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under (7a) through (7p) of these specifications provided that the contractor actively participates in the group, makes an effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected

in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's non-compliance.

- 9 A single goal for minorities and separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is under-utilized).
- 10 The contractor shall not use the goals and timetables of affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
- 11 The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order No. 11246, as amended.
- 12 The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed for ordered pursuant to Executive Order No. 11246, as amended, and its implementing regulations, by the office of Federal Contract Compliance Program. Any contractor who fails to carry out such sanction and penalties shall be in violation of these specifications and Executive Order No. 11246, as amended.
- 13 The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to employ with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- 14 The contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof, as may be required by the Government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay and locations at which work was performed. Records shall be maintained in an easily understandable and retrievable form, however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- 15 Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

REPORTING REQUIREMENTS FOR ALL PROJECTS OVER \$25,000

Monthly Employment Utilization Report

All prime contractors and subcontractors having 50 or more employees and performing work on federally-assisted projects are required to complete cc 257, listing their aggregate work force in each trade on all projects both federally and non-federally funded in the designated area. Each prime and subcontractor must also attach a listing of projects (both federal and non-federal in the designated area must be included. The accompanying list must provide the following information:

- 16 Name and location of the project.
- 17 Owner of the project (City, County or Private).
- 18 Project Number, if any.
- 19 Percentage complete.
- 20 Dollar amount of contract.
- 21 Estimated date of completion.

Prime contractors are responsible for collecting cc257 and the listing of all projects (both federal and non-federal in excess of \$25,000) from each of his subcontractors performing work on this project. The prime contractors will then forward their cc 257 and all of the subcontractor's cc257s as well as project list information to the U.S. Department of Labor, Federal Office Building, Room 2000, 911 Walnut street, Kansas City MO 64106

PLEASE NOTE:

Failure to submit the cc 257 by the fifth day of each month constitutes non-compliance with Executive Order No. 11246, as amended. Non-compliance is grounds for the issuance of a legal show cause notice for an informal hearing, authorized by OFCCP Rules and Regulations 41 CFR 60-1.7. Such a hearing could result in cancellation, termination or suspension of the contract.

EEO-1 REPORTING REQUIREMENTS

- 1 Each construction and non-construction prime contractor and first tier subcontractor who has 50 or more employees on total corporate or company payroll and signs a direct federal or financially-assisted contract, subcontract or purchase order in the amount of \$50,000 or more, shall file annually, in triplicate, on or before the 31st day of March, complete and accurate reports on Standard Form 100, Employer Information Reports (EEO-1) to the Joint Reporting Committee.

- 2 Each contractor or subcontractor required in paragraph (1) above shall submit an EEO-1 to the Joint Reporting Committee **WITHIN 30 DAYS** after award of such contract, subcontractor or purchase order as mentioned in paragraph (1) above, **UNLESS** such contractor or subcontractor has already submitted an EEO-1 report to the Joint Reporting Committee within 12 months preceding the date of award of a financially-assisted contract.
- 3 Failure to file timely, complete and accurate reports, as required in paragraphs (1) and (2) above constitutes non-compliance with the contractor's or subcontractor's obligations under Executive Order No. 11246, as amended, and is grounds for the imposition by the U.S. Department of Labor of any sanctions authorized by Executive Order No. 11246, as amended, and other rules and regulations pursuant thereto.

NOTE:

Contractors and subcontractors may obtain EEO-1 reporting forms by writing to: Joint Reporting Committee, 2401 " E" Street, Northwest Washington DC 20506.

POSTING REQUIREMENTS

Immediately after construction begins and for the duration of construction the successful bidder, prime contractor or subcontractor must post in conspicuous places at the project site available to employees and applicants for employment, EEO notices which shall be provided by the owner after contract award.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION
TO
ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(EXECUTIVE ORDER NO. 11246)

1. The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" as set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

GOALS FOR FEMALE PARTICIPATION IN EACH TRADE

Until further notice, the goal of 6.9% for each trade is applicable statewide.

GOALS FOR MINORITY PARTICIPATION IN EACH TRADE

Until further notice, the goals for each trade are shown by Area and County. All counties are in Nebraska unless otherwise shown.

103 South Sioux City, IA (Parts in IA, NE & SD):

Dakota	1.9
All Other Counties	1.2
Antelope	Madison
Cedar	Pierce
Cuming	Stanton
Dakota	Thurston
Dixon	Wayne
Knox	

142 LINCOLN AREA

Lancaster	2.8
All Other Counties	1.9
Butler	Pawnee
Fillmore	Polk
Gage	Richardson
Jefferson	Saline
Johnson	Seward
Nemaha	Thayer
Otoe	York

143 OMAHA AREA:

Douglas, Sarpy and Pottawattamie IA	7.6
All Other Counties	5.3
Cass	Adams IA
Burt	Audubon IA
Colfax	Fremont IA
Dodge	Harrison IA
Platte	Mills IA
Saunders	Montgomery IA
Washington	Page IA
	Shelby IA
	Taylor IA

144 GRAND ISLAND AREA:

All Counties	1.4
Adams	Furnace
Arthur	Garfield
Blaine	Gosper
Boone	Grant
Boyd	Greeley
Brown	Hall
Buffalo	Hamilton
Chase	Harlan
Cherry	Hayes
Clay	Hitchcock
Custer	Holt
Dawson	Hooker
Dundy	Howard
Franklin	Kearney
Frontier	Keith
	Keya Paha

SCOTTSBLUFF AREA:

All Counties	5.3	
Lincoln	Banner	Kimball
Logan	Box Butte	Morrill
Loup	Cheyenne	Scotts Bluff
McPherson	Dawes	Sheridan
Merrick	Deuel	Sioux
Nance	Garden	
Nuckolls		
Perkins		
Phelps		
Red Willow		
Rock		
Sherman		
Thomas		
Valley		
Webster		
Wheeler		

These goals are applicable to all the contractor's construction work (whether or not it is federal or federally-assisted) performed in the covered area.

The contractor's compliance with the Executive Order and the regulations in 41 CFR, Part 60-4 shall be based on its implementation of the Equal Employment Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 50-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR, Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance program within ten (10) working days of award of any construction subcontract in excess of \$25,000 in any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract, and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is:

*
 (State) (City) (County)

* (NOTE TO ARCHITECTS/ENGINEERS: FILL IN THE BLANKS BEFORE SENDING SPECIFICATIONS FOR REVIEW.)

U. S. DEPARTMENT OF THE INTERIOR

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION**

LOWER TIER COVERED TRANSACTIONS

=====

This certification is required by the regulations implementing Executive Order No. 12549, Debarment and Suspension, 43 CFR, Part 12, Section 12.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations are included in the proposal package. For further assistance in obtaining a copy of the regulations, contact the U.S. Department of the Interior, Acquisition and Assistance Division, Office of Acquisition and Property Management, 18th and C Streets, N.W., Washington DC 20240.

**BEFORE COMPLETING CERTIFICATION:
READ INSTRUCTION ON REVERSE SIDE**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

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NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

=====

SIGNATURE

DATE

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated, may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order No. 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal, that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List (Tel. #).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

achment B

REQUIREMENTS FOR EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE

CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRMS (FROM ATTACHMENT "O" OMB CIRCULAR A-102)

If any subcontracts are to be awarded, the prime contractor shall take affirmative steps to include the following:

1. Include qualified small and minority businesses on solicitation lists.
2. Assure that small and minority businesses are solicited whenever they are potential sources.
3. When economically feasible, divide the total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
4. Where the requirements permit, establish schedules which will encourage participation by small and minority businesses.
5. Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

CONTRACTORS PLEASE NOTE: A listing of potential sources to inform Minority/Women Contractors and a list of Minority-owned Construction Firms may be obtained from the Engineer or Architect.

Attachment C

LAND AND WATER CONSERVATION FUND COMPLIANCE CHECKLIST

REQUIREMENTS	Less Than \$10,000	Contract Amount \$10,000 to \$99,000	\$100,000 to \$1,000,000
SPONSOR'S RESPONSIBILITIES			
A. Contracting with Small and Minority or Women's Business		X	X
B. Handicapped Compliance	X	X	X
C. Notice of Contract Award		X	X
MINIMUM SPECIFICATION ELEMENTS - CONSULTANT RESPONSIBILITIES			
A. Notice to Bidders		X ²	X
B. Copeland Anti-Kickback Act	X	X	X
C. Breach of Contract Provisions	X	X ²	X
D. Contract Works Hours Act	X	X	X
E. Access to Records Provisions	X	X ²	X
F. Copyright Provisions	X	X	X
G. Contract Termination Provisions		X ²	X
H. Suspension and Debarment		X ²	X
I. Affirmative Action Requirements		X	X
J. Bond Requirements			X
K. Water Pollution Control Act			X
L. Clean Air Act			X

NOTE: For all contracts less than \$10,000 whether formally advertised or not, the items listed above, "Less than \$10,000" column, **must be** included in the contract. Material only contracts do not need labor provisions in the specification.

²Include these in the specifications for material only procurements.

DOCUMENT SUBMITTAL CHECK LIST

	PLANS AND SPECIFICATIONS - Send two (2) copies to the NGPC for review and further guidance.
	SIGNED CONTRACT - Send one (1) signed contract, and bonds if required, for each successful bidder.
	CHANGE ORDER - Send one (1) copy of each Change Order for review and approval.
	DEPARTMENT OF ENVIRONMENTAL QUALITY APPROVAL - Send one (1) copy of the approval letter.
	STATE ELECTRICAL DIVISION REPORT - Send one (1) copy of the final inspection.
	DEPARTMENT OF HEALTH APPROVAL - Send one (1) copy of the approval letter.
	DEBARMENT/SUSPENSION CERTIFICATE - Send one (1) copy having the signature of the successful contractor(s).